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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,685	10/30/2003	Michael Harville	200313422-1	3564
22879	7590	12/01/2008		
HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			EXAMINER ALAM, UZMA	
			ART UNIT 2457	PAPER NUMBER
			NOTIFICATION DATE 12/01/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/698,685	HARVILLE ET AL.	
	Examiner UZMA ALAM	Art Unit 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 02 September 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1 and 36-74 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1, 36-74 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/06/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is in response to the arguments filed September 2, 2008. Claims 1 and 36-74 are pending. Claims 1 and 36-74 represent a method for managing a streaming media service.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 36-74 are rejected under 35 U.S.C. 102(e) as being anticipated by Day et al. US Patent No. 5,996,025. Day teaches the invention as claimed including a resource management framework to negotiate mapping of media service providers over a network (see abstract).

As per claim 1, Day teaches a method for managing a streaming media service, said method comprising:

receiving a request for a streaming media service from a client, (column 15, lines 35-40); selecting a service location manager to which to provide said request from a plurality of service location managers [data pump; 164], said service location manager configured for

selecting a service provider from a plurality of service providers; (column 5, lines 20-33; column 6, lines 4-20);

selecting said service provider [multimedia file system; 170] to which to assign said media service component from a plurality of service providers of a network (service operations; Table 1, column 6, lines 44-55; column 5, lines 35-40) ;

informing said service provider of said assignment to perform said media service component, causing said service provider to prepare to perform said streaming media service on streaming media (assign resources; column 15, lines 61-52);

using information at said service location manager to determine whether to initiate a handoff of said streaming media service from said service provider to another service provider without altering said streaming media service (maintain a constant rate of play; column 15, lines 10-13; column 15, lines 45-51); and

if it is determined to initiate said handoff, initiating said handoff to said another service provider such that said streaming media service to said client is not interrupted (resource changes have no negative impact on client application functions; column 3, lines 24-34; column 15, lines 18-51).

As per claim 36, Day teaches the method as recited in claim 1, wherein said information comprises information received from said service providers and information associated with location and priority of said service providers (column 15, lines 21-31).

As per claim 37, Day teaches the method as recited in claim 1, wherein said information comprises information received from any client device that is involved in said streaming media service (column 15, lines 16-21).

As per claim 38, Day teaches the method as recited in claim 1, wherein said information comprises information associated with network conditions (column 15, lines 21-31).

As per claim 39, Day teaches the method as described in claim 1, wherein said selecting said service location manager comprises: maintaining a record comprising identifying information for a set of service location managers among said plurality of service location managers; (column 15, lines 11-16) and

selecting said service location manager in a round robin manner from said record (column 15, lines 21-25).

As per claim 40, Day teaches the method as described in claim 1, wherein said selecting said service location manager comprises a comparison of available resources of a first set of service providers supervised by a first service location manager and available resources of a second set of service providers supervised by a second service location manager (column 15, lines 54-67; column 9-15).

As per claim 41, Day teaches the method as described in claim 1, wherein said selecting said service location manager comprises a comparison of processing loads of at least two service

location managers among said plurality of service location managers (balancing load between resources; column 15, lines 31-52-).

As per claim 42, Day teaches the method as described in claim 1, wherein said selecting said service location manager is based on an estimate of a network communication condition between two entities connected by the network (bandwidth estimation; column 15, lines 31-52).

As per claim 43, Day teaches the method as described in claim 1, further comprising: notifying a second service location manager among said plurality of service location managers of the assignment of said service provider to perform said media service component (column 15, lines 54-67).

As per claim 44, Day teaches the method as described in claim 1, wherein said service provider is supervised by more than one service location manager among said plurality of service location managers (column 5, lines 20-36).

As per claim 45, Day teaches the method as described in claim 44, further comprising: maintaining a record comprising identifying information of a set of service location managers among said plurality of service location managers, each service location manager of said set of service location managers supervising said service provider (column 4, lines 44-60; column 5, lines 2-16); and

notifying said set of service location managers according to said record of said assignment of said service provider to perform said media service component (column 5, lines 16-35).

As per claim 46, Day teaches the method as described in claim 1, further comprising: receiving resource availability information from said plurality of service providers, wherein said information is ascertained from ongoing resource measurements (column 15, lines 18-30); and said selecting said service provider based on said resource availability information (column 15, lines 54-67).

As per claim 47, Day teaches the method as described in claim 46, wherein said resource availability information is pushed from said plurality of service providers (asset management; column 6, lines 55-65 ).

As per claim 48, Day teaches the method as described in claim 46, wherein said receiving resource availability information occurs in response to polling of said service providers (column 6, lines 55-65).

As per claim 49 Day teaches the method as described in claim 1, wherein said selecting said service provider is based on static service provider information or static network information (column 15, lines 54-67).

As per claim 50, Day teaches the method as described in claim 49, wherein said static service provider information or static network information consists of at least one of the following: information concerning computational and memory resources, connectivity and expected bandwidth and latency between servers, client and content addresses, session dispatch history, and network proximity (column 15, lines 54-67).

As per claim 51, Day teaches the method of claim 1, wherein said selecting said service provider comprises: maintaining a record comprising assignments of service providers to perform media service components (); and  
said selecting said service provider based on said record ().

As per claim 52, Day teaches the method of claim 1, wherein said selecting said service provider comprises:  
maintaining a record comprising assignments of service providers to perform media service components (asset management; column 6, lines 30-41; 55-65);  
receiving resource availability information from said plurality of service providers, wherein said information is ascertained from ongoing resource measurements (column 5, lines 61-67; column 6, lines 1-19); and  
said selecting said service provider based on said resource availability information and said record (Table 1, column 15, lines 354-67)

As per claim 53, Day teaches the method as described in claim 1, wherein said selecting said service provider is based on an estimate of resources associated with performing said service (column 15, lines 30-51).

1. Claims 54-60 disclose a computer readable medium comprising computer-executable instructions stored thereon for implementing a method and claims 61-74 which teach a system and are rejected under the same rationale as claims 1, 36-74 which teaches the method.

***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
3. Adiga et al. US Patent No. 5892913 A
4. Dixon et al. US Patent No. 6058424 A
5. Duan et al. US Patent No. 7143433 B1
6. Gardner et al. US Patent No. 5583995 A
7. Carney et al. US Patent No. 7353277 B1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to UZMA ALAM whose telephone number is (571)272-3995.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Uzma Alam  
Ua  
November 21, 2008

/ARIO ETIENNE/  
Supervisory Patent Examiner, Art Unit 2457